



No. 21-1575

In the

SUPREME COURT OF THE UNITED STATES

GEOFFREY M. YOUNG, pro se, *Petitioner*

vs.

JUDGE JEREMY MATTOX, *Respondent*

Counsel for AMY McGRATH, *Real Party in Interest:*

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**On Petition for Writ of Certiorari to the
Supreme Court of Kentucky**

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

On May 12, 2021, I filed a petition in the Kentucky Court of Appeals for writs of mandamus and prohibition against Scott County Circuit Court Chief Judge Jeremy Mattox, Division 1.

1. Does any circuit court judge have the authority or discretion to prevent the clerk of the circuit court from properly performing her ministerial duties?

LIST OF PROCEEDINGS

- 1) *Young v. Mattox*, Kentucky Court of Appeals,
No. 2021-CA-0541-OA. Judgment entered on
June 25, 2021. App. 1 at a1-a12.
- 2) *Young v. Mattox*, Supreme Court of Kentucky,
No. 2021-SC-0269. Judgment entered on
March 24, 2022. App. 2 at a13-a25.

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TABLE OF CITED AUTHORITIES

Kentucky Revised Statute (KRS) 118.176	
.....	3, 8, 12, 13, 15
<i>Yanero v. Davis</i> , 65 S.W.3d 510, 522 (Ky. 2002) . . .	3
<i>Cottongim v. Stewart</i> , 283 Ky. 615, 142 S.W.2d	
171, 177 (1940)	4
Kentucky Civil Rule (CR) 11	2, 3, 4, 5, 6, 9, 15
<i>Southern Fin. Life Ins. Co. v. Combs</i> , 413 S.W.3d	
921, 925 (Ky. 2013)	11
<i>Stephenson v. Woodward</i> , 182 S.W.3d 162, 171-	
172 (Ky. 2006)	14
<i>Marbury v. Madison</i> , 5 U.S. 137, 141 (1803)	17
KRS 118.105(1)	19

BASIS FOR JURISDICTION

The jurisdiction of this Court is established by 28 U.S. Code § 1257 because the order affirming the Kentucky Court of Appeals' denial order was entered by the Supreme Court of Kentucky on March 24, 2022.

28 U.S.C. § 2403(c) may apply; therefore this petition is being served on the Attorney General of Kentucky, the Honorable Daniel Cameron, 700 Capital Avenue, Suite 118, Frankfort, Kentucky 40601.

STATEMENT OF THE CASE

I initiated this original action on May 12, 2021 when I filed a petition for writs of mandamus and prohibition against Scott County Circuit Chief Judge Jeremy Mattox, Division 1. The trial court – the Kentucky Court of Appeals – assigned it the case

number 2021-CA-0541-OA. I alleged as follows:

On October 14, 2020, I mailed out my response to Amy McGrath's motion to dismiss and a motion for CR 11 sanctions against McGrath and her lawyers. The Clerk received the document on October 19, 2020 and duly stamped it "Filed" in the upper right-hand corner of page 1. I noticed the motion to be heard "on either October 20, 21 or 22, at 9:00 am or at a time and in a manner (e.g., teleconference, in person), specified by the Court." The Judge, however, ordered Selena, an employee of the court, to white out the "Filed" stamp and mail the entire response and motion back to me. When it arrived in my mailbox on October 21, 2020, it had a yellow sticky note on the first page that read, "Per Judge office this needs to be noticed for 11-5-2020 @ 9 am. Selena." When I called the Clerk's Office on October 26, 2020 and spoke with Selena, she verified that the document had not been entered into the case record. On October 26, 2020, I refiled my motion for CR 11 sanctions and my response to McGrath's motion to dismiss and renoticed both for the regular motion hour on November 5, 2020. Petition for Writs at 1-2.

I alleged that that set of actions by Circuit Judge Mattox enabled him to violate KRS 118.176 in the underlying ballot challenge case, Scott Circuit Case No. 20-CI-0609. I alleged that the main motives of Judge Mattox were to dismiss my ballot challenge without ever weighing the evidence and to drive me into bankruptcy by imposing massive, unjustified CR 11 sanctions against me, regardless of the facts of the case, the preponderance of the evidence, the governing statute, the Civil Rules, and the law.

I also alleged that his actions interfered with the ministerial functions of the circuit court clerk and put her at immediate risk of being held liable for nonfeasance, misfeasance and/or malfeasance of her duties. See *Yanero v. Davis*, 65 S.W.3d 510, 522 (Ky. 2002), which instructs as follows:

[I]t is equally well settled that where

the law imposes upon a public officer the performance of ministerial duties in which a private individual has a special and direct interest, the officer will be liable to such individual for any injury which he may proximately sustain in consequence of the failure or neglect of the officer either to perform the duty at all, or to perform it properly.

"In such a case the officer is liable as well for nonfeasance as for misfeasance or malfeasance."

Cottongim v. Stewart, 283 Ky. 615, 142 S.W.2d 171, 177 (1940) (quoting Mechen on Public Officers).

I alleged that Judge Mattox later exceeded his authority and abused his discretion again:

On April 26, 2021, the Scott Circuit Court Clerk received a copy of a motion I had mailed in demanding CR 11 sanctions against Amy McGrath and her four attorneys of record. However, a few days later, I received the document back in the mail with the "Filed April 26 2021" stamp crossed out and a sticky note attached to page 1 that read:

Cannot Re Docket

Court has no
Jurisdiction
upon Appeal

I further alleged:

Motion Hour #4 took place on May 6, 2021 via a Zoom link. Amy McGrath was represented by attorney Jon V. Connor. I said, "This is my motion for sanctions, Your Honor, but my motion was returned to me with a sticky note that mentioned jurisdiction. I'm planning to re-file it." Hon. Judge Jeremy Mattox, Division 1, made it clear that "the Court will not hear it." I asked how it was possible that the Court has jurisdiction over some CR 11-related matters (such as enforcing a judgment lien against me) but not others (such as deciding my CR 11 motion for sanctions). The Judge said, "That's different."

I alleged that the Judge's second set of actions also interfered with the ministerial functions of the circuit court clerk and put her at risk of being held liable for nonfeasance, misfeasance and/or

malfeasance of her duties.

The third violation occurred after I had filed my original action in the Court of Appeals. Counsel had noticed a hearing on July 1, 2021 related to a facially unjust order the circuit court had entered on December 17, 2020 that hit me with massive sanctions and failed to say what, if anything, I had done wrong. On June 23, 2021, I mailed another motion to the Scott Circuit Court, Division 1, asking for CR 11 sanctions against Defendant Amy McGrath and her four attorneys of record. I noticed it for July 1, 2021. A couple of days before July 1, I received a copy of my motion back in the mail with no explanation whatsoever. It did, however, have a mark in the upper right-hand corner suggesting that the clerk had stamped the original document, that someone had whited out most of the date stamp but

not all of it, and that a copy had been mailed back to me. It seems to me that Judge Mattox tried to hide his third violation by ordering someone to use white-out or by using white-out himself but was unable to hide the date stamp completely.

In sum, the Respondent unlawfully interfered with the ministerial duties of the clerk of the Scott Circuit Court, Tina M. Foster, on three separate occasions: on October 19, 2020 when he ordered the clerk's employee to mail my response and motion back to me instead of filing it; on April 26, 2021 when he ordered the clerk or her employee to mail back a motion I had mailed in instead of filing it; and on or about June 28, 2021 when he ordered the clerk or her employee to mail back a copy of a motion instead of filing it.

All three of the alleged violations, especially

the first one in October 2019, enabled Judge Mattox to commit tremendous injustices against me and against every Kentucky voter by knowingly violating key provisions of the governing statute, KRS 118.176. Circuit Judge Mattox has been doing exactly that since September 27, 2018 when I filed my first ballot challenge against Amy McGrath in Scott County Ballot Challenge No. 18-CI-0541. If my motions to vacate a previous order, for example, are never entered into the case record and never scheduled for a hearing, Judge Mattox can avoid having to write and enter another denial order and seeing me appeal it. It makes his job so much easier.

On June 25, 2021, the Court of Appeals – the trial court – entered its denial order of my petition for a writ. See Appendix 1, pp. a1-a12 herein. In that order, the Court of Appeals noted that “the

circuit court refused to file Young's pleading and returned it to him with a Post-It Note advising him to notice the pleading for November 5, 2020." App. 1 at a18. The reason I filed my Original Action was to get the Court of Appeals to find and declare that no circuit court judge may do things like that because such actions violate the separation of powers and meddle impermissibly in the ministerial duties of the clerk. However, the Court of Appeals refused ever to consider and rule on that single question of law.

The Court of Appeals noted that the Scott Circuit Court "granted McGrath's motion for CR 11 sanctions, ordering Young to pay \$25,550.93." App. 1 at a5. However, the Court of Appeals refused ever to consider my argument that that award of sanctions was completely unsupported by the facts and the law and was therefore reversible error.

On June 25, 2021, I filed a notice of appeal in the Court of Appeals and on August 10, 2021 I filed my appellant's brief in the Supreme Court of Kentucky, which had assigned the case number 2021-SC-0269 to my only appeal as of right.

Just as the Court of Appeals had done, the Supreme Court of Kentucky noted, in its March 24, 2022 opinion, that “The circuit court refused to file Young's pleading, returning it to him with a note. The note advised him to notice the motion for November 5, 2020.” App. 2 at a16. The reason I filed my only appeal as of right was to get the Supreme Court of Kentucky to find and declare that no circuit court judge may do things like that because such actions violate the separation of powers and meddle impermissibly in the ministerial duties of the clerk. However, the Supreme Court of Kentucky refused

ever to consider and rule on that single question of law.

A writ of mandamus or prohibition should be issued when the lower court allegedly is (1) acting without jurisdiction (which includes acting beyond its jurisdiction), or (2) acting erroneously within its jurisdiction, or (3) a substantial miscarriage of justice will result if the lower court is proceeding erroneously, and correction of the error is necessary and appropriate in the interest of orderly judicial administration. *Southern Fin. Life Ins. Co. v. Combs*, 413 S.W.3d 921, 925 (Ky. 2013).

I have filed two ballot challenge cases in Scott County Circuit Court against Amy McGrath. The first was filed on September 27, 2018, and Chief Judge Jeremy Mattox assigned it to himself. That was unlawful, however, because he was a candidate

that year and the last sentence of section (2) of the governing statute, KRS 118.176, requires a circuit judge who is himself or herself a candidate to present the ballot challenge to “the Circuit Judge of any adjoining judicial circuit.” Not being an attorney, I didn’t notice that until more than a year later, but Chief Judge Mattox should have noticed it instantly and followed the law. Because he did not, he had no jurisdiction to do anything at all in that case in 2018 or 2019, and all of the orders he entered were nullities. The Kentucky Court of Appeals and the Supreme Court of Kentucky should also have found and declared that the circuit court never had jurisdiction to do anything in 2018 or 2019, but somehow they too overlooked that violation. For more details about that case, see this Court’s Docket No. 21-1122, which I filed on February 14, 2022.

In Scott Circuit Ballot Challenge No. 20-CI-0609, Chief Judge Jeremy Mattox did have jurisdiction, starting on September 28, 2020. However, he immediately made it clear that he was going to violate a key provision of KRS 118.176(2): “The motion [i.e., the ballot challenge] shall be tried summarily and without delay.” Three days after filing my ballot challenge, on October 1, 2020, I mailed out a motion that the circuit court “enter its final order and injunction in this ballot challenge on or before October 9, 2020, with or without an evidentiary hearing.” On October 9, 2020, Amy McGrath, by counsel, electronically filed a motion and memorandum to dismiss that was totally lacking in merit. McGrath and counsel noticed the motion for a hearing on November 5, 2020, and the circuit court scheduled a hearing at 9:00 am on that date to

deal with that motion. On October 16, 2020, the court entered an order denying my motion for a final decision on the merits on or before October 9, 2020.

The day of the general election, however, was November 3, 2020. Judge Mattox was clearly signalling his intention to become a “recalcitrant judge,” in the words of the Supreme Court of Kentucky in *Stephenson v. Woodward*, 182 S.W.3d 162, 171-172 (Ky. 2006). That is what that court used to call any circuit court judge who “simply let(s) the motion sit until after election day.” *Id.*

My petition for writs of prohibition and mandamus therefore met the following requirements:

1. The circuit court was acting erroneously within its jurisdiction and also exceeding its jurisdiction by violating the statute's requirement to

decide the ballot challenge on the merits “summarily and without delay.” KRS 118.176(2).

2. The circuit court was exceeding its jurisdiction and preventing the Clerk from carrying out her ministerial duties by ordering Selena not to file my response to Amy McGrath's motion to dismiss and my motion for CR 11 sanctions until after November 3, 2020.

3. The circuit court acted erroneously within its jurisdiction by refusing to note that I had presented substantial evidence that Amy McGrath was not a bona fide candidate in 2020 [or 2018; see KRS 118.176(1) for the definition of a bona fide candidate] and that she had never presented any counterevidence that she was – only motions to dismiss and for sanctions against me. Because a ballot challenge is a civil action, the standard of

proof is a preponderance of the evidence presented.
Some evidence must beat no evidence every time.

4. The circuit court committed a massive miscarriage of justice by delaying its decision until after November 3, 2020 and then dismissing my entire ballot challenge because McGrath had lost the election and the entire question had supposedly become moot. I know that was Judge Mattox's firm intention because he did exactly the same thing in my 2018 ballot challenge against McGrath – the case in which he never had jurisdiction at all.

All of the findings by the Kentucky Court of Appeals and the Supreme Court of Kentucky to the effect that I had no right to a writ were therefore obvious errors of law.

**REASONS WHY CERTIORARI SHOULD
BE GRANTED**

In *Marbury v. Madison*, 5 U.S. 137, 141 (1803),
this Court elucidated the separation of powers
arising from the Constitution and instructed as
follows:

In the performance of all these duties he
[i.e., the Secretary of State] is a public
ministerial officer of the United States.
And the duties being enjoined upon him
by law, he is, in executing them,
uncontrollable by the president; and if
he neglects or refuses to perform them,
he may be compelled by *mandamus*, in
the same manner as other persons
holding offices under the authority of
the United States. The president is no
party to this case. The secretary is
called upon to perform a duty over
which the president has no control, and
in regard to which he has no dispensing
power, and for the neglect of which he is
in no manner responsible. The secretary
alone is the person to whom they are
intrusted, and he alone is answerable
for their due performance.

Likewise, in the case under appeal, the Chief
Judge of the Scott Circuit Court was no party to the

underlying ballot challenge. Judge Jeremy Mattox has no more power or discretion to prevent the clerk from doing her ministerial duties than President Madison had to prevent the Secretary of State from doing his ministerial duties in 1803.

On all three occasions, the circuit court clerk properly performed her ministerial duties: She stamped my motions “Filed” with the date they were filed, and presumably tried to enter them in the case record. In all three instances, the Respondent caused the clerk's ministerial act to be undone, thereby unfairly exposing her to potential liability and at the same time violating the doctrine of separation of powers.

The two orders found in the Appendix, taken together, imply that it is perfectly acceptable, lawful and proper for a circuit court judge to interfere with

the ministerial duties of the clerk of the circuit court any time the judge wants to violate a plaintiff's right to a fair trial.

I suffered irreparable harm by having to pay \$25,550.93 to Amy McGrath and never seeing it again.

The worst harm, however, was done to all of Kentucky's registered voters in November 2018 and November 2020. Amy McGrath was not a qualified, bona fide candidate either time because she knowingly joined a conspiracy of powerful Democrats and institutions that chronically violated KRS 118.105(1). That means that everyone who voted for her was deceived by the conspiracy, and their votes were wasted. Corrupt judges and corrupt candidates are attacking democracy itself, and our Commonwealth and nation are poorer as a result.

CONCLUSION

This Court may wish to consider summary reversal of the two orders included in the Appendix because both of them, if not reversed by this Court, will be used in the future to enable circuit court judges to interfere with the ministerial duties of Kentucky's circuit court clerks and thereby further the cause of injustice, not justice.

Respectfully signed on June 15, 2022 by:



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